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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,721	09/30/2003	Walter Etter	10	3992

7590 07/19/2007  
Docket Administrator (Room 3J-219)  
Lucent Technologies Inc.  
101 Crawfords Corner Road  
Holmdel, NJ 07733-3030

EXAMINER
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LENNOX, NATALIE

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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07/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/674,721

Applicant(s)

ETTER, WALTER

Examiner

Natalie Lennox

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2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>November 10, 2003</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As per claims 1 and 7, applicant refers to a "cyclical manner" to describe the way a gain parameter is changed. However, the term "cyclical manner" is vague and not clear. For the purposes of examination, examiner interprets the "cyclical manner" as representing any variation over given period of time. Claims 2-6 and 8-12 are also rejected as being dependent over the rejected claims and not curing this indefiniteness.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Cellario et al. (US Patent 5,519,807).

As per claim 1, **Cellario** teaches a method for modifying the level of a speech signal, wherein the speech signal is encoded as a bit stream, the method comprising:

changing a gain parameter in the encoded speech signal in a variable and cyclical manner so that changes in gain are temporally dispersed (Col. 4, lines 34-39, Col. 6, lines 25-29 and 33-37, and also Col. 7, lines 52-56, wherein the changed parameter is the updated  $i(g_{max})$  during the test cycle.).

As per claim 2, **Cellario** teaches the method according to claim 1, wherein the gain parameter is a fixed codebook gain index (Col. 4, lines 34-39, since CELP coding implies adjusting fixed codebook gains, it would be inherent to say that the gain parameter adjusted is the fixed codebook gain index).

As per claim 3, **Cellario** teaches the method according to claim 2, wherein changing the gain parameter comprises incrementing the fixed codebook gain index in a variable and cyclical manner so that the increment in fixed codebook gain is temporally dispersed (Col. Col. 4, lines 34-39, Col. 6, lines 25-29 and 33-37, and also Col. 7, lines 52-56, wherein the changed parameter is the updated  $i(g_{max})$  during the test cycle. Since CELP coding implies adjusting fixed codebook gains, it would be inherent to say that the gain parameter adjusted is the fixed codebook gain index. Also since an optimum gain will be determined for each subframe (Col. 4, lines 34-37), the increment in fixed codebook gains is temporally dispersed.).

As per claim 7, **Cellario** teaches a method for modifying the level of a speech signal wherein the speech signal is encoded as a bit stream such that the speech signal

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is transported in one or more frames, each frame including a plurality of sub-frames, the method comprising:

changing a gain parameter in the encoded speech signal in a variable and cyclical manner over a plurality of sub-frames so that changes in gain are temporally dispersed over one or more sub-frames (Col. 4, lines 34-39, Col. 6, lines 25-29 and 33-37, and also Col. 7, lines 52-56, wherein the changed parameter is the updated  $i(g_{max})$  during the test cycle.).

As per claim 8, **Cellario** teaches the method according to claim 7, wherein the gain parameter is a fixed codebook gain index (Col. 4, lines 34-39, since CELP coding implies adjusting fixed codebook gains, it would be inherent to say that the gain parameter adjusted is the fixed codebook gain index).

As per claim 9, **Cellario** teaches the method according to claim 8, wherein changing the gain parameter comprises incrementing the fixed codebook gain index in a variable and cyclical manner over the plurality of subframes so that the increment in fixed codebook gain is temporally dispersed (Col. Col. 4, lines 34-39, Col. 6, lines 25-29 and 33-37, and also Col. 7, lines 52-56, wherein the changed parameter is the updated  $i(g_{max})$  during the test cycle. Since CELP coding implies adjusting fixed codebook gains, it would be inherent to say that the gain parameter adjusted is the fixed codebook gain index. Also since an optimum gain will be determined for each of the subframes (Col. 4, lines 34-37), the increment in fixed codebook gains is temporally dispersed.).

***Allowable Subject Matter***

3. Claims 4 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter:

As per claims 4, there is no prior art reference, alone or in combination, that specifically teaches or suggests the limitation of maintaining the fixed codebook gain index at a first index increment value for a first portion of a cycle period; and incrementing the fixed codebook gain index to a second index increment value for the remaining portion in that cycle period.

As per claims 10, there is no prior art reference, alone or in combination, that specifically teaches or suggests the limitation of maintaining the fixed codebook gain index at a first index increment value for one or more sub-frames in a cycle period; and incrementing the fixed codebook gain index to a second index increment value for the remaining sub-frames in that cycle period.

Claims 5-6 are allowable because they further limit claim 4.

Claims 11-12 are allowable because they further limit claim 10.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Manjunath et al. (US Patent 6,438,518) provides a processor being configured to cause successive speech frames to be coded by selected coding modes in accordance with a pattern of coded speech frames (Col. 3, lines 30-41).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie Lennox whose telephone number is (571) 270-1649. The examiner can normally be reached on Monday to Friday 9:30 am - 7 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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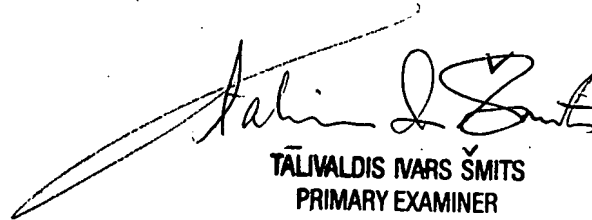
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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NL

07/11/2007



TĀLIVALDIS MĀRS ŠMITS  
PRIMARY EXAMINER